



Road Traffic Offenders Act 1988

1988 CHAPTER 53

PART I

TRIAL

Verdict

23 Alternative verdicts in Scotland.

(1) If on the trial on indictment in Scotland of a person for culpable homicide in connection with the driving of a [^{F1} mechanically propelled vehicle] by him the jury are not satisfied that he is guilty of culpable homicide but are satisfied that he is guilty of an offence under section 2 of the Road Traffic Act 1988 ([^{F2} dangerous] driving), they may find him guilty of that offence.

^{F3}(2)

(3) If on the trial on indictment in Scotland of a person for stealing a motor vehicle the jury are not satisfied that he is guilty of stealing the motor vehicle but are satisfied that he is guilty of an offence under section 178 of that Act (taking motor vehicle without authority etc.), they may find him guilty of an offence under that section.

Textual Amendments

F1 Words in s. 23(1) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 90(2)(a)**; S.I. 1992/1286, **art. 2**, Sch.

F2 Word in s. 23(1) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 90(2)(b)**; S.I. 1992/1286, **art. 2**, Sch.

F3 S. 23(2) repealed (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, 83, Sch. 4 para. 90(3), **Sch.8**; S.I. 1992/1286, **art. 2**, **Sch.**Appendix

Status: Point in time view as at 01/07/1992.

Changes to legislation: Road Traffic Offenders Act 1988, Cross Heading: Verdict is up to date with all changes known to be in force on or before 03 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[^{F4}24 Alternative verdicts: general.

(1) Where—

- (a) a person charged with an offence under a provision of the Road Traffic Act 1988 specified in the first column of the Table below (where the general nature of the offences is also indicated) is found not guilty of that offence, but
- (b) the allegations in the indictment or information (or in Scotland complaint) amount to or include an allegation of an offence under one or more of the provisions specified in the corresponding entry in the second column,

he may be convicted of that offence or of one or more of those offences.

Offence charged	Alternative
Section 1 (causing death by dangerous driving)	Section 2 (dangerous driving) Section 3 (careless, and inconsiderate, driving)
Section 2 (dangerous driving)	Section 3 (careless, and inconsiderate, driving)
Section 3A (causing death by careless driving when under influence of drink or drugs)	Section 3 (careless, and inconsiderate, driving) Section 4(1) (driving when unfit to drive through drink or drugs) Section 5(1)(a) (driving with excess alcohol in breath, blood or urine) Section 7(6) (failing to provide specimen)
Section 4(1) (driving or attempting to drive when unfit to drive through drink or drugs)	Section 4(2) (being in charge of a vehicle when unfit to drive through drink or drugs)
Section 5(1)(a) (driving or attempting to drive with excess alcohol in breath, blood or urine)	Section 5(1)(b) (being in charge of a vehicle with excess alcohol in breath, blood or urine)
Section 28 (dangerous cycling)	Section 29 (careless, and inconsiderate, cycling)

- (2) Where the offence with which a person is charged is an offence under section 3A of the Road Traffic Act 1988, subsection (1) above shall not authorise his conviction of any offence of attempting to drive.
- (3) Where a person is charged with having committed an offence under section 4(1) or 5(1)(a) of the Road Traffic Act 1988 by driving a vehicle, he may be convicted of having committed an offence under the provision in question by attempting to drive.
- (4) Where by virtue of this section a person is convicted before the Crown Court of an offence triable only summarily, the court shall have the same powers and duties as a magistrates' court would have had on convicting him of that offence.

Status: Point in time view as at 01/07/1992.

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- (5) Where, in Scotland, by virtue of this section a person is convicted under solemn procedure of an offence triable only summarily, the penalty imposed shall not exceed that which would have been competent on a conviction under summary procedure.
- (6) This section has effect without prejudice to section 6(3) of the Criminal Law Act 1967 (alternative verdicts on trial on indictment), sections 61, 63, 64, 312 and 457A of the Criminal Procedure (Scotland) Act 1975 and section 23 of this Act.]

Textual Amendments

- F4** S. 24 substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s.24; S.I. 1992/1286, art. 2,Sch.

Status:

Point in time view as at 01/07/1992.

Changes to legislation:

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